



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MJ

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,923	12/18/2001	Zeev Shpiro	023285-000210US	4864
20350	7590	08/24/2006	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			ZAND, KAMBIZ	
		ART UNIT	PAPER NUMBER	
			2132	

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/023,923	SHPIRO ET AL.
	Examiner	Art Unit
	Kambiz Zand	2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 30 June 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-15 and 24-50 is/are pending in the application.
4a) Of the above claim(s) 41-50 is/are withdrawn from consideration.

5) Claim(s) 4-6,8,10,11,14,15,27-29,31,33,34,37 and 38 is/are allowed.

6) Claim(s) 1,2,7,9,12,13,24,25,30,32,35,36,39 and 40 is/are rejected.

7) Claim(s) 3 and 26 is/are objected to.

8) Claim(s) 41-50 are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 18 December 2001 is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


KAMBIZ ZAND
PRIMARY EXAMINER

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this section can be found in the prior office action.
2. The prior office actions are incorporated herein by reference. In particular, the observations with respect to claim language, and response to previously presented arguments.
3. Claims 3-4, 7-11, 14-15, 26-27, 30-34, 37-38 have been amended.
4. Claims 16-23 have been cancelled.
5. New claims 39-50 have been added.
6. New claims 41-50 have been withdrawn from examination (see election/restriction below).
7. Claims 1-15 and 24-50 are pending.
8. Examiner withdraws rejection of claims 7, 9, 30 and 32 under 35 U.S.C 112-second paragraphs due to correction by the applicant.

Response to Arguments

9. Applicant's arguments with respect to the added new or amended claims have been considered but are moot in view of the new ground(s) of rejection.
10. In response to applicant's argument with respect to the independent claims, examiner makes the following remarks: one cannot show nonobviousness by attacking references individually where the rejections are based on combinations

of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Election/Restrictions

11. Newly submitted claims 41-50 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

a) claims 41-50 are drawn to the non-elected similar group invention that originally were restricted on 09/13/2005.

The election-restriction became final since no traverse was submitted by the applicant in response to the restriction requirement including in response to the subsequent reply to non-final office action. The cancellation of the restricted claims confirms the finality of such restriction election.

b) Claim 50, drawn to a method of charging fee and payment authorization based on user access. classified in class 705, subclass 77 (in .

II. Claims 41-49, drawn to a code generator. classified in class 380, subclass 44 . Claim 50 (link claim) further may be restricted within the group classify in class 705, subclass 77.

Claims 1-15 and 24-40 (Invention I), drawn to a method, an apparatus for authentication of a user and a message which is the user's language learning response , classified in class 713, subclass 170.

1. Inventions I, and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as user authentication. Invention II has separate utility such as generating a code (key). See MPEP § 806.05(d).
2. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 41-50 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

12. Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. Applicant should consider the entire prior art as applicable as to the limitations of the claims. It is respectfully requested from the applicant, in preparing the response, to consider fully the

entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

13. Claims 1, 2, 12, 13, 24, 25, 35, 36 and 39-40 are rejected under 35

U.S.C. 103(a) as being unpatentable over Blass et al (6,296,489 B1) in view of Scull (2002/0004785 A1).

As per claim 1 and 24 Blass et al (6,296,489 B1) teach an apparatus, a method (see col.11, lines 61-67) of controlling access to a language learning computer facility (see abstract; fig.1 and associated text where item 100 corresponds to the applicant's apparatus and related text disclose the apparatus and the method; col.3, lines 27-41 with respect to the language learning), the method comprising: permitting a user to interact with the computer facility through a computer node of a network (see fig.1 and associated text where the workstations 112 or 114 corresponds to applicant's nodes of the network 110, Examiner also considers any computer systems regardless of the names such as server or workstation or computer as being a node within a network 110; see col.5, lines 15-23 where the user or student uses workstation 112 or 114 for training) the user interaction comprising language learning responses submitted to the computer facility through the computer node (see col.5, lines 15-23 where the interaction of the user through computer nodes 112 or 114 through network 110 with servers 116 or 118 which corresponds to applicant's computer facility; see col.5, lines 31-54 disclose interactive learning response; also see also col.7, lines 24-44 and 53-67; col.8, lines 1-6); performing a

user authentication process to determine if the permitted user interaction is authorized (see fig.7 and associated text where the server that corresponds to applicant's computer facility authenticate the user in step 302-306); and determining whether the permitted user interaction should be continued, if the user is determined not to be authorized (see fig.7 and associated text where in step 306 determines the user interaction should continue or not and if the user is authorized send the user request to the user in step 310 and if not continues to step 312); wherein the user authentication process is performed with user authentication information that is obtained by the computer facility during the permitted user interaction (see fig.7 and associated text where the user authentication information is obtained through the user logs on at step 302; Also see col.12, lines 56-65; col.7, lines 9-11; col.9, lines 26-34). Blass et al (6,296,489 B1) however do not disclose that user authentication also involves information extracted from the user's language learning responses. On the other hand Scull (2002/0004785 A1) do disclose user authentication also involves information extracted from the user's language learning responses (see fig.1 and associated text; [0033]). It would have been obvious to one of ordinary skilled in the art at the time the invention was made to utilize Schull's combination authentication criteria in Blass's system and method language training environment in order to preserve security advantage while simplifying and making more flexible process by which passwords are obtained (see [0028]).

As per claims 2 and 25 Blass et al (6,296,489 B1) teach an apparatus, a method as

defined in claims 1 and 24 respectively, wherein the permitted user interaction includes receiving user speaker verification information that is obtained from the user in response to language learning requests from the computer facility (see fig.1-3 and 7 and associated text including see col.12, lines 56-65; col.7, lines 9-11; col.9, lines 26-34) but do not explicitly disclose analyzing the speaker verification information to verify that the user is a recognized speaker. However Scull (2002/0004785 A1) do disclose analyzing the speaker verification information to verify that the user is a recognized speaker (see fig.1 and associated text; [0033] where the voice of the user that corresponds to applicant's speaker information is generated, analyzed and verified as one part of the user information for authentication). It would have been obvious to one of ordinary skilled in the art at the time the invention was made to utilize Schull's combination authentication criteria in Blass's system and method language training environment in order to preserve security advantage while simplifying and making more flexible process by which passwords are obtained (see [0028]).

As per claims 39, and 40, these claims are combination of claims 1 and 2; 24 and 25 as applied above, having added limitation of "the determination of whether user interaction should be continued is performed a predetermined time after the user begin interaction with the computer facility" which it is obvious to one of ordinary skilled in the art that such determination is based on a time period after the start of such process. Having set a predetermined set of time is also well known in the art.

As per claims 12 and 35 Blass et al (6,296,489 B1) teach an apparatus, a method as defined in claims 1 and 24 respectively as applied above but do not explicitly disclose, wherein the user authentication process comprises: requesting a user identification code input; receiving identification code generated by a code generator that is attached to a microphone that communicates with the user computer and through which the user provides speech input. However Scull (2002/0004785 A1) do disclose the user authentication process comprises: requesting a user identification code input; receiving identification code generated by a code generator that is attached to a microphone that communicates with the user computer and through which the user provides speech input (see fig.1 and 2 and associated text; [0033] where the code generator generates user code and target code as user voice). It would have been obvious to one of ordinary skilled in the art at the time the invention was made to utilize Schull's combination authentication criteria in Blass's system and method language training environment in order to preserve security advantage while simplifying and making more flexible process by which passwords are obtained (see [0028]).

As per claims 13 and 36 Blass et al (6,296,489 B1) teach an apparatus, a method as defined in claims 1 and 24 respectively as applied above but do not explicitly disclose, wherein performing the user authentication process comprises receiving multiple types of authentication information and determining user authorization

based on criteria relating to information that includes at least two from among: user speaker verification information, user progress information, user performance information, or a user identification code. However Scull (2002/0004785 A1) do disclose at least two criteria of user speaker or vice and user identification code (see fig.1 and 2 and associated text including [0033]). It would have been obvious to one of ordinary skilled in the art at the time the invention was made to utilize Schull's combination authentication criteria in Blass's system and method language training environment in order to preserve security advantage while simplifying and making more flexible process by which passwords are obtained (see [0028]).

14. Claims 7, 9, 30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blass et al (6,296,489 B1) in view of Scull (2002/0004785 A1) and further in view of Chadha (5,963, 908 A).

As per claims 7, 9, 30 and 32 Blass et al (6,296,489 B1) in view of Scull (2002/0004785 A1) teach an apparatus, a method as defined in claims 1 and 24 respectively, but do not explicitly disclose wherein the user authentication information comprises student instruction progress/performance information obtained during the language learning user interaction. However Chadha (5,963, 908 A) disclose the user authentication information comprises student instruction progress/performance information obtained during the language learning user interaction (see abstract; fig.2-3b and associated text). It would have been obvious

to one of ordinary skilled in the art at the time the invention was made to utilize Chadha's user progress/performance due to inputting user voice input for authentication with master voice input or prior progress/performance in Schull's combination authentication criteria in Blass's system and method language training environment in order to authorized user access based on the priority level of the vice pattern (see abstract).

Allowable Subject Matter

15. Claims 4-6, 8, 10-11, 14-15, 27-29, 31, 33-34 and 37-38 are allowed.
16. Claims 3, and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kambiz Zand whose telephone number is (571) 272-3811. The examiner can normally be reached on Monday-Thursday (8:00-5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (571) 272-3799. The fax phone numbers for the organization where this application or proceeding is assigned as 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



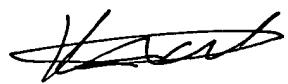
KAMBIZ ZAND
EXAMINER

Application/Control Number: 10/023,923
Art Unit: 2132

Page 12

08/21/2006

AU 2132



KAMBIZ ZAND
PRIMARY EXAMINER